

## REMARKS

Claims 1, 9, and 11-28 are now pending in the application. Claims 1, 3 and 5-20 are rejected. Claims 1, 9, and 11-20 have been amended. Claims 2-8 and 10 have been cancelled. New claims 21-28 have been added for substantive examination. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

## CLAIM REJECTIONS

Claims 1, 9, 10 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over DE19938511 in view of U.S. Patent No. 6,805,398 to Harima et al. Claims 5-8 and 13-15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over DE19938511 and U.S. Patent No. 6,805,398 to Harima et al. in view of U.S. Patent No. 6,220,649 to Rife. Claim 19 is rejected under 35 U.S.C. § 103(a) as being unpatentable over DE19938511, U.S. Patent No. 6,805,398 to Harima et al. and U.S. Patent No. 6,220,649 to Rife in view of U.S. Patent No. 6,719,356 to Cleland et al. Claim 3 is rejected under 35 U.S.C. § 103(a) as being unpatentable over DE19938511 and U.S. Patent No. 6,805,398 to Harima et al. in view of U.S. Patent No. 6,053,562 to Bednarski. Claim 11 is rejected under 35 U.S.C. § 103(a) as being unpatentable over DE19938511 and U.S. Patent No. 6,805,398 to Harima et al. in view of DE19713317. Claims 17-18 and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over DE19938511, U.S. Patent No. 6,805,398 to Harima et al. and U.S. Patent No. 6,220,649 to Rife in view of DE19713317.

The Applicant has amended claim 1 to include the limitations of previously pending claim 10 effectively rewriting claim 10 in independent form. The Applicant

respectfully submits that none of the references cited, either solely or in combination with one another, render amended claim 1 or previously pending claim 10 as obvious. In particular, the Applicant respectfully submits that reference DE '511 does not disclose a reinforcement member with a substantially "L"-shaped cross-section. On the contrary, the Applicant respectfully submits that the cross-sectional shape of the reinforcement member depicted in Figure 2 of reference DE '511 is not shown. Accordingly, the Applicant respectfully requests withdrawal of the § 103 rejections to claims 1, 9 and 11.

Regarding claim 12, the Applicant has rewritten this claim in independent form and respectfully submits that none of the references cited by the Examiner, either solely or in combination with one another, render claim 12 as obvious. In particular, Figures 8-10 of reference DE '511 depict wiring 26 positioned in a channel 24 defined by a cover profile 23. Cover profile 23 is fixed to the tubular frame 1. As such, not only do the references not teach or suggest a liftgate frame as defined by claim 12, but reference DE '511 **teaches away** from such an arrangement. Accordingly, the Applicant respectfully requests withdrawal of the § 103 rejection to claim 12.

Claim 13 has been amended to note that the liftgate includes a window and a tailgate pivotally coupled to the liftgate frame, each being moveable between open and closed positions. Furthermore, claim 13 has been clarified to note that the ring formed by the upper frame member and the lower frame member is moveable between open and closed positions. The Applicant respectfully submits that none of the references cited by the Examiner, either solely or in combination with one another, render amended claim 13 obvious. In particular, the Applicant would like to point out that claim 13 recites

an upper frame member fixed to a lower frame member forming an uninterrupted ring surrounding an opening. A window hinge and a tailgate hinge are coupled to the liftgate frame. The tailgate hinge is adapted to rotatably couple the tailgate to the liftgate frame. The opening defined by the uninterrupted ring is adapted to be unobstructed when the window and the tailgate are each in the open position.

The Examiner cites Rife as teaching the use of a tailgate hinge (72). However, the Applicant respectfully submits that the Examiner erroneously states that tailgate hinge (72) is coupled to the horizontal segment of the lower frame. On the contrary, the Examiner's attention is directed to Figure 2 of Rife showing shaft 72 being fixed to the vehicle body. Furthermore, none of the references cited teach the use of a moveable liftgate frame as defined by claim 13. On the contrary, Rife discloses closure panel assembly 10 having an upper member 20 and a lower member 22 that are selectively rigidly interconnected or independently articulated relative to vehicle body 18 (Col. 2, lines 53-60). No liftgate frame is disclosed by Rife that includes a tailgate hinge coupled to a liftgate frame that is adapted to rotatably couple the tailgate to the liftgate frame.

DE '511 teaches a transversely extending connecting profile 2 and a back rail 18 interconnecting vertical side rails of the frame with one another to provide the very purposeful function of making the frame more stable as stated at Col. 5, lines 65-68 of reference '511. As such, the Applicant respectfully submits that none of the references teach or suggest, either solely or in combination with one another, a liftgate frame having an upper frame member and a lower frame member fixed to one another forming an uninterrupted ring surrounding an opening with a window and tailgate hinge coupled to the liftgate frame such that the opening is unobstructed when the window and the

tailgate are in the open position. The Applicant respectfully submits that the Examiner is employing impermissible hindsight reasoning by stating that the claimed combination is obvious. Accordingly, the Applicant respectfully requests the Examiner to withdraw the rejections to claims 13-20.

New claim 21 also recites a tailgate hinge coupled to a horizontal segment of a liftgate frame where the tailgate hinge is adapted to pivotally interconnect a tailgate and the lower frame member of the liftgate frame. As previously discussed, none of the references cited by the Examiner, either solely or in combination with one another, render the liftgate frame of new claim 21 obvious. In particular, lower member 22 of Rife is not pivotally coupled to a lower frame member of a liftgate frame but is selectively pivotally coupled to a shaft 72 fixed to the vehicle body.

Accordingly, the Applicant respectfully submits that each of new claims 21-28 are not anticipated nor rendered obvious by any of the references cited by the Examiner. Therefore, the Applicant respectfully requests the Examiner to pass each of the pending claims to allowance.

#### CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner

believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1222.

Respectfully submitted,

Dated: December 5, 2007

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